Approved for Release: 2019/02/01 C06560718

Addendum

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US Classification//Non US//SCI//Codeword//FGI//Dissem Controls//Non-Intell//Declass (as appropriate)

EXECUTIVE CORRESPONDENCE ROUTING SHEET

1. Origination Office: Director of Security			2. Date: 11/24/2009
3. FROM:	Name: Charles S. Phalen, Jr.	Room No. and Building: OHB	Phone: (b)(3) (b)(3)

4. Subject
(U//FOUO) Limitation of Scope of Eligibility for FERS Special Retirement for SPS Officers

5. Originating Office Control #	5a. Response to DAC # *(Originating Office to Complete)*	5b. DAC Control # *(DAC Use Only)*
		DAC-000559-2009 (b)(3)

6. Justification / Summary *(Required for Immediate and Priority Actions)*

☐ **Routine** ☒ **Priority** ☐ **Immediate**

7. Coordination
Coordinated through OGC/Legal and OGC/ALD

NOTE: All correspondence sent to D/CIA must be sent via ADD/CIA and DD/CIA

DATE IN	ROUTE TO	ACTION *(Check a Box)*	NONCONCUR REASON	DATE OUT
12/1	TITLE DS OHB SIGNATURE	☐ SIGNATURE ☑ CONCUR ☐ FYI		14 Dec 09 (b)(3) (b)(6)
DEC 16 2009	TITLE DAC SIGNATURE	☐ SIGNATURE ☐ CONCUR ☑ FYI		DEC 16 2009
DEC 16 2009	TITLE IA OHB SIGNATURE	☑ SIGNATURE ☐ CONCUR ☐ FYI		12/24 (b)(3) (b)(6)
	TITLE SIGNATURE	☐ SIGNATURE ☐ CONCUR ☐ FYI		
	TITLE SIGNATURE	☐ SIGNATURE ☐ CONCUR ☐ FYI		
	TITLE OS/PPG/FO OHB SIGNATURE	☐ SIGNATURE ☐ CONCUR ☐ FYI	Return for copies and distribution. Helen please ensure the DS/FO receives	(b)(3)
	TITLE SIGNATURE	☐ SIGNATURE ☐ CONCUR ☐ FYI	a copy of the final signed memo. Thanks. dp	

FORM 03-07 **4468**

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CL BY:
CL REASON:
DECL ON:
DRV FROM:

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[redacted] (b)(3)

NOV 24 2009

MEMORANDUM FOR: Associate Deputy Director

VIA: Director for Support

FROM: Charles S. Phalen, Jr.
Director of Security

SUBJECT: (U//FOUO) Limitation of Scope of Eligibility for FERS Special Retirement for SPS Officers

REFERENCE: (U//FOUO) Memo from DS to ADD/CIA dtd. 15 Jan. 08, [redacted] (b)(3) "Permitting Security Protective Officers to Retire after 20 Years under FER Special"

1. (U//FOUO) Action Requested: That you approve an express limitation to the scope of the initiative approved in Reference, which will restrict the eligibility for FERS Special retirement to officers serving in the Security Protective Service (SPS) on or after 1 June 2008. This action will conform to the consistently expressed intent by the Office of Security (OS) during the inception, review and internal coordination of this initiative that the FERS Special retirement program be used to promote the recruitment and retention of SPS officers, not to serve as a mechanism for FERS Special eligibility for former SPS officers.

2. (U//FOUO) Background: As OS began taking steps to implement FERS Special retirement benefits for SPS officers after the ADD/CIA approved this initiative pursuant to 50 U.S.C. §§ 2152(a) and 2113, questions arose concerning the potential eligibility of former SPS officers for FERS Special retirement benefits; that is, whether those officers who

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served for a period of time in the SPS but left prior to 1 June 2008, either to other positions within OS, the CIA, or who have resigned from the CIA, are eligible. When considering this issue, and after consultation with the Office of General Counsel (OGC), it became clear that the referenced approval memo unintentionally is not sufficiently precise on this point. In fact, OGC has advised that the approval memo must be read by its terms to include former SPS officers within the ambit of FERS Special retirement eligibility.

3. (U//FOUO) Consistent with a statutory requirement for FERS Special retirement eligibility, OS intended that FERS Special retirement benefits be used as a retention tool for SPS officers. OS recognized early in the planning phase of this initiative that this purpose was not served by including former SPS officers within the scope of this program. As a result, OS consistently undertook to frame the program in that context. For example, OS informed former SPS officers still serving in OS that they were not included within the scope of the retirement program. In addition, the initial costing information that was determined with the assistance of the Chief Financial Officer, and included within the referenced approval memorandum and in the associated Congressional Notification, was limited to costs associated with currently serving SPS officers.

4. (U//FOUO) If former SPS officers are considered to be eligible for FERS Special retirement, not only will the purpose of this initiative not be effectively served, there will be significant unintended financial implications for the Agency, not just OS. Many former SPS officers continue to serve throughout the Agency. And under traditional FERS Special funding procedures, the component that houses the future retiree is responsible for funding the government's contribution to the FERS Special annuity. We estimate those costs to be in excess of [redacted] within the next two years, for OS alone. (b)(3)

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5. (U//FOUO) OGC has advised that it is within your authority to limit SPS FERS Special eligibility as requested. The authority for the initiation and scope of programs describing FERS Special eligibility is discretionary in nature, so long as those decisions have a rational basis and are not arbitrary and capricious. The consistent record in this case of the stated purpose of FERS Special eligibility for SPS officers to enhance the recruitment and retention of those officers, as well as the avoidance of significant unintended costs for the Agency that do not address the core intent of this initiative, provides such a rational basis. Since 1 October 2008, the positive impact of this program has been illustrated with attrition of [ ] officers [ ] thus far in FY09 and [ ] for FY08, as contrasted with [ ] officers ([ ] in FY06 and [ ] in FY07. (b)(3) ((b)(3) (b)(3) ((b)(3)

6. (U//FOUO) Recommendation: That you approve the limitation of SPS FERS Special retirement eligibility to officers serving in the SPS on or after 1 June 2008.

(b)(6)

[ ]

Charles S. Phalen, Jr.

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CONCUR:

[redacted] (b)(6)

Director for Support

14 Dec 2009
Date

APPROVE:

[redacted] (b)(3) (b)(6)

Associate Deputy Director

24 Dec 09
Date

Intent was always from date of memo (1 Jan 08) forward, not backwards in time.

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D/OS/CPhalen: [redacted] (28 Oct 09) (b)(3)
Sec/ppg/fo/psg_fo/SPS FERS Special 2 - Clarification

Distribution:
Orig - Addressee
1 - DAC
1 - DS/FO
1 - PPG/FO

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